

FRANK J. GOULD FINED

Nolo Contendere Plea Accepted in Wire Pool Case.

NOT TO THE COURT'S LIKING

Judge Hough Justifies Action by Saying He Followed Predecessor's Course.

Frank J. Gould, who was indicted on June 29 as president of the Old Dominion Iron and Nail Works, of Richmond, Va., with eighty-two other defendants for participation in pools to control the steel wire trade, entered a plea of nolo contendere in the United States Circuit Court yesterday, and Judge Hough fined him \$1,000.

Judge Hough said, in accepting the plea of nolo contendere, that he was simply following the action taken by Judge Archibald in the case of seventy-three of the defendants, who appeared before that judge and were fined after entering this plea which has never before been permitted in his jurisdiction.

"During my time there have been quite a number of applications made for the plea of nolo vult in this district," said Judge Hough. "So far as I know, after inquiry of the comparatively few persons who have been acquainted with these courts longer than I have, it is not within the memory of a living man that the plea of nolo vult has been accepted in New York."

The reason for this, I think, is quite obvious on examination of two or three of our state statutes. It is now many years since pleading on the criminal side has been regulated by statute in New York, and therefore the common law plea of nolo vult has not been accepted in the state courts.

"It is of such common occurrence that, in the substantive matter contained in any indictment, a charge might be brought in the federal court or in the state courts that it would be most unjust to have a trial of this particular style of plea which was unlawful in the state court, especially when that particular style of plea has always been from time immemorial within the discretion of the trial court."

Therefore I wish it to be understood, so far as I am concerned, that the acceptance of the plea of nolo vult in this case is based upon its acceptance by the judge who first heard it; for there is no reason here that I can see to change what has been done in this particular case, but this action is not to be regarded as a precedent in my administration of the criminal law."

After entering the plea Thomas S. Fuller, counsel for Mr. Gould, explained to the court his client's connection with the pool. He said that Mr. Gould had been a large stockholder several years in the steel railing companies of Richmond, Va., which at a time were not successful financially. As they needed more power, Mr. Gould bought the water power at Belle Isle, Va., by purchasing the Old Dominion Iron and Nail Company, which owned the power. This company, Mr. Fuller said, was at the time of the purchase a member of the Horse Shoe Manufacturers' Association, the pool for membership in which Mr. Gould was induced.

The Old Dominion Iron and Nail Company, Mr. Fuller continued, resigned its membership in the association in 1906, but endeavors were made to secure its return by offering better terms. Before consenting that the company should return to the association Mr. Gould secured the advice of his counsel, who assured him that in his opinion the plan did not infringe the law.

"Mr. Gould then gave his consent that the company should rejoin the association," Mr. Fuller said, "but he expressly prohibited his company from agreeing to any plan which had for its object the fixing of prices. This company withdrew voluntarily, and has not been a party to any arrangement of this kind since."

During the periods when it was a member of the association Mr. Gould never attended a meeting of the association or had anything to do with the rules of the association or its management in any way—his sole connection being that of nominal president."

BUSINESS TROUBLES.

The following bankruptcy petitions were filed yesterday in the United States District Court:

"He was a tall, slim man, and not strong enough to be a longshoreman," volunteered the witness.

"But he had a good strong hand and could write well," Mr. Croxey suggested.

"I guess so," said Mr. Elliott.

Mr. Elliott knew of no other reason why he had Nichols and others sign notes, except for accommodation. Bankers knew two-name notes, he said. He knew that Mr. Sullivan liked two names on such paper.

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GOULD'S ASSOCIATES SPEAK

Bankers Defend Step Regarding St. Louis Southwestern.

The banking firm of Middendorf, Williams & Co. issued a statement yesterday setting forth their position and that of Frank J. Gould, with whom they have been acting in the movement which resulted in the election of R. Lancaster Williams as a director of the Missouri Pacific Railroad last April and in the effect which they are now making to secure representation in the board of

the St. Louis Southwestern Railroad. The statement is, in part, as follows:

"Since the formation of stockholders' meeting new strong financial interests who are not identified with competing lines have entered the board. The floating debts have been paid off, cash has been placed in the company's reserve covering expenditures for improvements and betterments at the rate of \$6,000 per year for the next three years. An active, practical operation has been installed with full powers, and already substantial and satisfactory progress has been made in effecting economies and building up its business. Soon the effects of President Roosevelt's administration will be reflected in the monthly statement of earnings. The results will speak for themselves and we believe will be very satisfactory to the minority stockholders, who asked for representation in pools to control the steel wire trade, entered a plea of nolo contendere in the United States Circuit Court yesterday, and Judge Hough fined him \$1,000."

Our present activities in the St. Louis Southwestern are in the interest of all minority stock and are not actuated by any motives other than a belief on our part that the other interested minority stockholders require representation in the management of the property, particularly at this time."

The movement is not intended to be a fight upon the present management of the St. Louis Southwestern Railway Company or any officer or any interest therein, but is intended to be a fight upon the company and believe that its prosperity will be better promoted by having representation on the board by the minority interest in the property. The policy of the company of holding the boards of directors selected from or by the controlling interest has not been satisfactory in the administration of large public service properties of this kind, and the result of the investigation upon the board should be so widely distributed as to form a board representative of all stockholders."

HOPE TO PAY IN FULL

Van Schaick & Co. Expect to Collect Large Sum Soon.

John B. Van Schaick, head of the Stock Exchange firm of Van Schaick & Co. which failed on Tuesday, prepared a circular letter to all the creditors of the firm. In this letter Mr. Van Schaick expresses his gratitude for the kindness and consideration that have been shown the firm by its creditors. He says he believes every one will be paid in full.

While Van Schaick & Co. have about \$800,000 in outstanding bad accounts, practically all owed by their customers, the indications are that much of this amount will be collected at an early date. According to Eliot Norton, the assignee, about \$25,000 was received yesterday. At the time of the failure there was on hand about \$25,000 in cash. The money received yesterday from debtors customers brings the cash now on hand to \$50,000.

So confident is Mr. Van Schaick that the liquidation of the firm will result in a settlement in full for all creditors, that he declines to permit it to go into voluntary bankruptcy. He insists that the house is not bankrupt, and that the creditors can be paid off without resorting to the bankruptcy court.

The members of the firm have received many letters from bankers and from business friends and associates, all expressing sympathy with them and confidence in their integrity, which has been nowhere questioned.

INTERBOROUGH MAY ISSUE BONDS.

Application has been made to the Public Service Commission by the Interborough Rapid Transit Company for authority to issue \$11,000,000 of these bonds to come under its name.

As they needed more power, Mr. Gould bought the water power at Belle Isle, Va., by purchasing the Old Dominion Iron and Nail Company, which owned the power. This company, Mr. Fuller said, was at the time of the purchase a member of the Horse Shoe Manufacturers' Association, the pool for membership in which Mr. Gould was induced.

The Old Dominion Iron and Nail Company, Mr. Fuller continued, resigned its membership in the association in 1906, but endeavors were made to secure its return by offering better terms. Before consenting that the company should return to the association Mr. Gould secured the advice of his counsel, who assured him that in his opinion the plan did not infringe the law.

"Mr. Gould then gave his consent that the company should rejoin the association," Mr. Fuller said, "but he expressly prohibited his company from agreeing to any plan which had for its object the fixing of prices. This company withdrew voluntarily, and has not been a party to any arrangement of this kind since."

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WOMAN AS BANK DUMMY

Former Union Bank Clerk Tells of Signing Big Checks.

MERELY OBEYED ORDERS

Many Witnesses Testif. They Followed Instructions of Former President D. A. Sullivan.

Certain bankers, real estate men, and other persons, some of them not clearly identified, but who filled an important part as willing and frequent signers of accommodation paper, all apparently bowed to the dictum of David A. Sullivan, former president of the defunct Union Bank, in financial and, probably, personal matters, and satisfactory progress has been made in effecting economies and building up its business. Soon the effects of President Roosevelt's administration will be reflected in the monthly statement of earnings. The results will speak for themselves and we believe will be very satisfactory to the minority stockholders, who asked for representation in pools to control the steel wire trade, entered a plea of nolo contendere in the United States Circuit Court yesterday, and Judge Hough fined him \$1,000."

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The hearing was then adjourned until tomorrow morning at 10 o'clock.

Judge Duke yesterday accepted the resignation of John F. Geis as foreman of the September grand jury, which will consider the Union Bank case. Frank L. Cannon was appointed in his place. Mr. Geis remains a member of the grand jury, as also does Charles Ratner. Judge Duke's action was taken in regard to Mr. Geis' letter to a letter from Geis asking to be relieved from grand jury duty because of the public objections which had been made to his service when the Union Bank matters were under consideration on account of his friendly relations to men whose names have been prominently mentioned in that connection.

Mr. Geis and Mr. Ratner will continue to serve as grand jurors, they will not be present when the Union Bank case is under investigation, it is understood.

James C. Croxey, who is conducting the examination of witnesses at the hearings in the Kings County Courthouse, brought out some interesting information in regard to the former relations of the Union Bank to the Jeromeon Security Company and other companies, which were controlled by Sullivan and his associates. Mrs. Bertie S. Hulbert, who when she was Miss Jones was a clerk in the Union Bank, was a star witness for the investigators.

When the Jeromeon company was formed, for the purpose of taking care of the mortgage part of the bank's business, she was transferred to the office of Gilbert Elliott, on the tenth floor of the building in which the Union Bank was located. She worked for the Jeromeon company, but was paid by the bank, and understood that they were one and the same thing, she said.

Mr. Croxey introduced in evidence a book purporting to be the minutes of the Jeromeon Security Company. The witness identified it, and said that she had "written them all up at one time," which was in December, 1905, just prior to the time the failure there was on hand about \$25,000 in cash. The money received yesterday from debtors customers brings the cash now on hand to \$50,000.

So confident is Mr. Van Schaick that the liquidation of the firm will result in a settlement in full for all creditors, that he declines to permit it to go into voluntary bankruptcy. He insists that the house is not bankrupt, and that the creditors can be paid off without resorting to the bankruptcy court.

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